

**Technical Amendment
February 27, 2020**

739 KAR 2:070. Volunteer fire department loan fund.

RELATES TO: KRS 95A.262(4), (5), (13), (14)

STATUTORY AUTHORITY: KRS 95A.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.262 authorizes the Commission on Fire Protection Personnel Standards and Education to make low interest loans for the purchase of major equipment and construction of facilities to properly trained volunteer fire departments which do not have other sources of funds at rates which are favorable given their financial resources. This administrative regulation is necessary to establish the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

Section 1. Definitions. (1) "Accessory equipment" means ladders, hoses, self-contained breathing apparatus, portable pump and hard suction hoses, nozzles, power extrication tools and protective equipment necessary to carry out the ordinary functions of supporting fire fighting activities.

(2) "Apparatus equipment" means pumpers, tankers and other large equipment used for fighting fires and emergencies. This equipment is more specifically categorized as follows:

(a) "Pumper" means any pumper which can pump 500, 750, 1,000, 1,250 or 1,500 gallons per minute at 150 pounds per square inch net pumping pressure.

(b) "Tanker" means a mobile water supply fire apparatus with a water capacity of 1,000 gallons or more and a minimum flow rate to pump connection of 500 gallons per minute except when a booster pump is provided.

(c) "Rescue-pumper" means an apparatus capable of pumping a minimum of 250 gallons per minute at 150 PSI net pumping pressure, carrying a minimum of 500 gallons of water.

(3) "Approved" means approved by the commission or its authorized designee for a particular purpose.

(4) "Commission" means commission as defined by KRS 95A.210.

(5) "Committee" means the loan committee of the Commission on Fire Protection Personnel Standards and Education.

(6) "Communications equipment" means equipment or system, or both, necessary for the transmission and reception of signals, by voice, required to support the operations of the volunteer fire department.

(7) "Eligible" means a volunteer fire department that has met the training requirements and is in good standing for receipt of state aid pursuant to 739 KAR 2:050 and the loan request requirements of this administrative regulation.

(8) "Emergency" means fire department equipment, apparatus or facilities have been damaged, destroyed or rendered inoperable and established firefighting capacity is reduced to a level affecting public safety.

(9) "Facilities" means any structure or portion of a structure intended for storage or protection of firefighting equipment including rooms or spaces designed and used for firefighting training.

(10) "Local government" as defined by KRS 95A.210(3).

(11) "NFPA" means the National Fire Protection Association.

(12) "Protective equipment" means clothing or equipment used by firefighters which affords protection from injury to the wearer or user including, but not limited to, fire coats, boots, helmets and turnout pants meeting current NFPA standards.

(13) "UL" means Underwriters Laboratories.

(14) "Volunteer fire department" means a fire department recognized by the Commission on

Fire Protection Personnel Standards and Education as having a membership of more than fifty (50) percent of its members being full-time volunteer firefighters.

(15) "Volunteer fire department loan fund" means the fund established pursuant to KRS 95A.262(14).

Section 2. Eligibility. (1) A volunteer fire department may apply to the commission to receive low interest loans for the purchase of major equipment and facility construction pursuant to the requirements of this administrative regulation.

(2) Eligibility to participate in the loan fund shall be limited to those volunteer fire departments meeting the training requirements of KRS 95A.262(2) and continue in good standing to receive state aid, and which the commission finds are unable to obtain loans from conventional financial institutions at the rate of three (3) percent.

(3) A loan shall be considered from only one (1) fire department when more than one (1) department resides at the same physical location.

Section 3. Loan Purposes and Prohibitions. (1) Purposes. The commission shall consider a loan for the following purposes:

- (a) The acquisition of apparatus equipment;
- (b) The acquisition of communication equipment;
- (c) The acquisition of accessory equipment or protective equipment;
- (d) The construction of new facilities;
- (e) The modernization of existing facilities; and
- (f) The repair or rehabilitation of apparatus equipment where it has been determined that existing apparatus equipment no longer meets the standards of the NFPA and where the repair or rehabilitation, or both, of the equipment will bring it in compliance with NFPA standards.

(2) Prohibitions. A loan granted under this administrative regulation shall not be used for the following:

- (a) Operating expenses;
 - (b) For payment of fees for the designing or planning of facilities or preparation of application;
- or
- (c) For investment or reinvestment.

Section 4. General Loan Requirements. (1) Loan period. A loan period shall not exceed twelve (12) years. The period of time for repayment of the loan shall depend upon the amount of the loan and shall be set forth in the loan agreement. Except in the case of approved emergency loans, the minimum amount of a loan shall be \$5,000.

(2) Title of property. Any apparatus equipment or facilities financed by a loan from the fund shall be titled in the name of the volunteer fire department or in the name of the political subdivision with the commission as lien holder for the property. In the event the commission is supplying secondary funding, the commission shall become holder of a secondary encumbrance.

(3) Fire department matching funds. A prerequisite to obtaining a loan for facilities, vehicles, or rehabilitation of facilities, vehicles, or equipment, the volunteer fire department shall verify the availability of unobligated funds in the amount of twenty-five (25) percent of the total cost of the facility, vehicle, or equipment or rehabilitation of the facility, vehicle, or equipment.

(4) Financial responsibility. A copy of the last twelve (12) monthly bank statements must accompany the loan application.

(5) Repayment of loans.

(a) Interest on the principal amount of the loan shall accrue at the rate of three (3) percent per annum and shall be due and payable on the unpaid balance annually.

(b) The principal of the loan shall be repaid proportionally over the period of the loan. The principal may be reduced at anytime through advanced payment.

(c) The principal and interest of the loan shall be payable at the office designated on the loan approval form, with the payment being deducted from the state aid allotment for that year with any additional payment due or desired be made by check made payable to the Kentucky State Treasurer.

(d) A payment shall be made before the close of business on the due date or it shall be considered delinquent.

(e) Delinquent accounts shall not receive further loans or grants for state aid or training facilities until the delinquency is cured. If the delinquency of the account extends beyond three (3) months of distribution of the state aid check, foreclosure or repossession procedures shall begin.

(f) A portion of future state aid grants may be committed by the volunteer fire department to satisfy its loan agreement.

(g) Insurance. The volunteer fire department shall provide collateral protection insurance for the apparatus, equipment and facility construction sufficient to secure and protect the loan.

(6) Emergency loans. An eligible volunteer fire department may be granted an approved emergency loan pursuant to this administrative regulation.

Section 5. Loan Requirements for Fire Department Facility Construction. A request for a construction loan for fire department facilities shall meet the requirements of this section and other applicable requirements of this administrative regulation.

(1) A facility loan shall be granted for establishing or modernizing those facilities that house fire-fighting equipment.

(2) A facility loan shall not exceed seventy-five (75) percent of the total cost of the construction of the facility or \$75,000, whichever is less.

(3) A facility loan shall not be used for land acquisition.

(4) Land title. The title to the land upon which facilities are to be constructed or modernized under the loan shall be in the name of the volunteer fire department or the local government which the volunteer fire department serves.

(5) Clear title. The volunteer fire department or the political subdivision for which the volunteer fire department provides service shall have clear title to the land upon which the facility is to be constructed or modernized.

(6) Real property liens. Concurrent with the receipt of the loan, the volunteer fire department shall provide a copy of the deed and execute a lien document to be filed in the county court clerk's office in which the property is located.

(7) Plans approval. Final plans for construction shall be submitted for approval to the Department of Housing, Buildings and Construction or to an authorized local building official with a copy to the commission. The volunteer fire department shall be responsible for complying with the Kentucky Building Code, the Americans with Disabilities Act and other applicable laws. If any change to the plans or specifications is desired or required, the volunteer fire department shall furnish all additional labor and materials necessary to complete the project and the improvements in compliance with the changes to the plans and specifications.

(8) A certificate of occupancy shall be submitted to the commission by the volunteer fire department prior to release of loan funds.

Section 6. Apparatus Equipment. (1) Loan limits.

(a) The amount of a loan for the purchase of a single apparatus equipment shall not exceed \$75,000 or seventy-five (75) percent of the total cost, whichever is less. The apparatus being purchased with the loan funding shall not be more than twenty (20) years old and a copy of a pump

test conducted within the last year must accompany necessary documentation for the loan.

(b) The amount of a loan for the repair or rehabilitation for a single apparatus equipment shall not exceed \$35,000 or seventy-five (75) percent of the cost of repair or rehabilitation, whichever is less, and the apparatus shall not be more than twenty (20) years old.

(2) Apparatus loans. An apparatus loan shall be for the purpose designated in the loan request and approved by the commission for the following purposes:

(a) The purchase of firefighting apparatus equipment;

(b) The rehabilitation of existing apparatus equipment for the purpose of upgrading the apparatus to meet applicable National Fire Protection Association standards; and

(c) Repair of existing apparatus.

(3) Mandatory description or specification of equipment.

(a) New apparatus. The volunteer fire department shall submit one (1) complete set of specifications of the new apparatus.

(b) Repairs and rehabilitation. For the repair or rehabilitation of existing apparatus equipment, the volunteer fire department shall submit one (1) complete set of specifications along with three (3) estimates from qualified manufacturers for the repair or rehabilitation. If less than three (3) estimates are available, a statement shall be submitted explaining the reason why there are less than three (3).

(c) Purchase of used apparatus equipment. For used apparatus equipment, the volunteer fire department shall submit documentation of the type and quality of the equipment.

(d) Refurbished fire apparatus. For refurbished fire apparatus, the volunteer fire department shall submit the following:

1. Certification of refurbished equipment.

2. Pump test at time of purchase.

3. Any additional information which the loan committee may request.

(e) Loans will only be granted on repairable equipment and apparatus which are not more than twenty (20) years old and a pump test shall be submitted upon completion of repairs and must meet NFPA pump test requirements and acceptance.

(4) Compliance with National Fire Codes. The volunteer fire department shall submit to the commission verification that the new equipment is NFPA 1901-91 equipment.

(5) Prerequisite materials. The volunteer fire department shall record a lien on the affected vehicle title documents in the local county court clerk's office.

Section 7. Protective, Accessory and Communication Equipment. (1) An equipment loan shall be used for the purchase of protective, accessory and communication equipment.

(2) Equipment compliance.

(a) A volunteer fire department shall select protective and accessory equipment that shall be labeled as having been tested and listed by an approved nationally recognized testing agency.

(b) A volunteer fire department shall select communications equipment identified as meeting Federal Communications Commission regulations, 5 CFR Part 89.

(3) The amount of a loan for the purchase of equipment shall not exceed the lesser of \$75,000 or seventy-five (75) percent of the total cost price quote accepted by the borrower and submitted by the borrower as the accepted quote for purchase.

(4) Security interest. The commission shall retain a security interest in the property for the life of the loan.

Section 8. Loan Request Procedure. (1) An applicant seeking a low interest loan shall submit Form FPPSE-1, April, 1993, to the commission.

(2) The commission administrator shall review the application and status of the volunteer fire

department to determine if the minimum criteria for obtaining the loan has been met.

(3) The commission administrator shall notify the volunteer fire department of the disposition of the loan application, forwarding final forms to those eligible volunteer fire departments whose applications are satisfactory.

Section 9. Establishing Priorities. (1) A loan shall be reviewed for the applicant's stated purpose in the following order of preference:

(a) A request for replacement or repairs of unsafe or unusable fire apparatus, equipment or facilities.

(b) A request for replacement of outmoded fire apparatus, equipment or facilities.

(c) A request for additional apparatus, equipment or facilities because of unusual demands or present service.

(2) Priority shall first be given to applicants establishing the greatest need, utilizing the following criteria, not excluding other considerations.

(a) Financial need.

(b) Low economic base.

(c) Unusual fire hazards.

(d) County fire death rate.

(e) Population over sixty-five (65).

(f) Population growth.

(g) Tax exempt properties.

(h) New construction.

(i) Natural disaster.

(j) High mileage/usage.

(k) Existing equipment.

(3) Approval shall be granted in order of need and availability of funds for each qualifying volunteer fire department.

Section 10. Formal Application and Qualification Procedure. (1) To qualify for a loan, an eligible volunteer fire department shall submit Form FPPSE-2, April, 1993, to the commission.

(2) The commission shall render its decision at its next regularly scheduled meeting. Approved emergency loans may be granted prior to the regularly scheduled meeting.

(3) An eligible volunteer fire department aggrieved by a decision of the commission, may petition the commission, in writing, for reconsideration and the commission, upon receiving the request, shall provide the applicant with an opportunity to be heard at its next meeting.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form FPPSE-1, April, 1993, Loan Application Request Form.

(b) Form FPPSE-2, April, 1993, Low Interest Loan Application.

(2) This material may be inspected, copied or obtained at the Commission on Fire Protection Personnel Standards and Education, 118 James Court, Lexington, Kentucky 40505~~[1049 U.S. 127 South, Suite #5, Frankfort, Kentucky 40604]~~, Monday through Friday, 8 a.m. to 4:30 p.m. (19 Ky.R. 2577; Am. 20 Ky.R. 85; eff. 7-12-93; 25 Ky.R. 1213; 1616; 2377; eff. 2-24-99; Recodified from 815 KAR 45:100, 3-27-2002; Crt eff. 2-24-2020; TAm eff. 2-27-2020; Crt eff. 2-27-2020.)